

TESTIMONY OF Lydia J. Mele FOR RAISED BILL No. 5334

Madam Chair Senator Edith Prague, Co-chair Kevin Ryan, and distinguished members of the Labor Committee.

My name is Lydia Mele, and I thank you for the opportunity to testify before this Committee, to give a voice to all other injured workers out there who are, or have experienced the same frustration and stress I have for the undue delay in obtaining medical treatment for approved injuries and approved assistive devices, prescribed by my board certified physicians. I would encourage the sanctions in this Bill to be retroactive for those who have suffered throughout 2007, as this penalty would send a strong message, that undue delay and compromising injured workers health, will no longer be tolerated. I hope my testimony will give a better understanding of the injured workers experience and why it is important to pass this bill.

I testified last year for Bill No. 5697, and other bills for undue delay, to plead with this committee to encourage legislators on both sides of the aisle, to pass the bills for undue delay, and denial of medical treatment. Its not passing, was another devastating blow to injured workers, who feel powerless and hopeless, with no one to turn to. I hope sharing my experiences of this last year, the legislature will affirm changes are needed, as no change, has a profound effect on their injured constituents.

Many injured workers are afraid to come forward, for fear of retaliation from their employers/ insurers, and even feel that doing so is hopeless, and nothing will change. They are overwhelmed by a broken system, they have trouble navigating through, and often give up under all the pressure.

I hope the sharing of my experiences of the last year will be more persuasive, as the bill for undue delay did not pass last session, and I now find myself in worse condition, with the delay of pain management treatment, needed modifications for the wrong wheelchair I was given, that didn't follow my doctor prescription, and a brace (prescribed on 1-10-08, I have not yet received) that is necessary for my right ankle injury, which has been diagnosed with subluxation (a partial dislocation), impingement, nerve entrapment, and other diagnoses I will not mention for the sake of brevity, resulting from the same accepted work injury, breaking up a fight in the course of my employment.

I have experienced more than one injury in the course of my employment as a teacher/guidance counselor in the inner City, most of which were sustained breaking up fights, & exacerbated by failure to accommodate post injuries, or delay in providing necessary medical treatment. I have accepted injuries to the lumbar, cervical, and thoracic spine, bilateral torn rotator cuff and labrum tears, cartilage destruction, bilateral knee injuries, ankle injury etc. I loved my job, and the students I served. All these injuries cause severe pain, and when medical treatment is denied or delayed, it promotes chronic pain, and further deterioration.

I was prescribed pain management last February 2007. It is now one year and a month later and I have not yet received it. The insurance Co delayed despite several hearings, and the encouragement by the WC Commissioner to provide treatment. Often at these hearings Insurance representatives pretend to agree to treatment, and then don't provide it, as there is no consequence the Commissioner can impose at informal hearings. At the last pre-formal hearing On 2-14-08 ( after hearings before that), the Commissioner had only the power to again strongly recommended the pain management be approved, based on undisputed medical reports, yet the insurance Company would only finally agree to a one time evaluation by the pain management specialist, and my attorney has not yet received the approval from the insurance company case manager, for that one visit. I have been in excruciating pain, have been prescribed Vicodine, which I am afraid to take too often, as it is highly addictive, and gives me hives if I take more than one, therefore I have been suffering with excruciating pain, especially the last year, being in the wrong wheelchair without proper support.

The most egregious delay, is the denial in providing the modifications needed to my wheelchair for the last 10 months. The insurance company and their vendor did not provide the prescribed lumbar support chair, for my back injury, forcing me to be in the wrong chair without support for the last 10 months. I would like the legislative body as they vote on this bill, to try to imagine breaking their leg and being denied a cast for ten months, that would heal and support their leg, giving them mobility, and then also imagine the kind of pain they would have to endure, as I have with my back and my ankle, and other work injuries. My injured back needs support, as a broken leg needs a cast. I also have an accepted work related compression injury of the spine, there was consistent documented and notification to the vendor and insurance Co my back was hurting, and I needed the lumbar support. I repeatedly sent them faxes and other documentation that I was in severe pain without the lumbar support. My physician wrote letters and a Physical therapy rehabilitation evaluation they requested ( 6 months after my notifying them), which proved the chair deficient. ( see attached).

After 6 months of enduring this pain and a letter from my back doctor in October 2007, they suddenly insisted I needed an additional evaluation by a physical therapist, I immediately agreed to be evaluated by the physical therapist, hoping to speed up the process. The doctors report and pt rehab evaluation confirm the chair is and has been deficient from the day I received it 6-2-07, in more than just the lumbar support.

The WC carrier denied the needed modifications, ignoring the doctors and rehab therapists report, they requested. The Commissioner had no power to order them to stop delaying or sanction them for doing so, and it has been put down for a formal hearing, which may take months to get scheduled, months to go through the testimony, write the briefs, and then wait for the commissioner to decide, and the Commissioner can take 4 additional months after the trial, to render his decision. By that time the warranty on my chair will have expired, to say nothing of the pain I have endured and how being in the wrong seating position has, and is, affecting the other injured parts of my body, as described in the Physical therapy report. An emergency hearing takes several weeks or

months depending on how bogged down the system is, and how short they are of Commissioners, and the number of requests for hearings.

The fact the insurance company can get away with such delay, and I have been in the wrong chair for 10 months is criminal. This pattern of delay also bogs down the Workers' Comp Commission, when injuries workers are experiencing the same delays and waiting for hearings. It delays treatment even longer, as there are so many requests. The insurance companies have manipulated the law and the WC Compensation system to their advantage to delay treatment, and there is no consequence anyone can impose to their doing so unless you go to trial at a formal hearing. The injured worker can not turn to their representative or legislators, who say they cannot intervene, they cannot turn to the Insurance Commission who says they have no jurisdiction, they can not turn to the attorney General, who also says the same. The injured worker has to suffer the consequences to their health and mental well being and wait and hope for another year that legislators will pass laws to curtail this abuse.

This legislative body should know this undue delay has been a pattern with my employer & case manager at this insurance company, despite their being previously sanctioned by the WC Commission. I have had to fight for treatment and assistive devices for accepted injuries. I have had to go through emergency, informal & formal hearings that take what seems like forever, while in chronic pain, I don't know how I have kept my sanity. This insurance company has been repeatedly sanctioned, but the \$500.00 dollar sanction the law provides is a drop in the bucket to them, and encourages them to keep delaying and harassing the injured worker in the hopes they will give up. If you fight for your rights, they harass and delay all the more, to punish you and try to compel you to want to stop fighting for your rights and your medical needs. Under the present laws there is nothing substantive to deter them from these delays, and they use and manipulate the laws to harass and wear down the injured worker. If they are fined, and to pay the claimant a hefty amount for each delay, it will deter them from such delay.

I have had the same delays with my shoulder injuries involving rotator cuff and labrum tears, that are accepted WC injuries. Treatment was repeatedly delayed from the time it was prescribed and I am at the point where I can't lift my arms or hold doors open. In 2004 a form 43 was filed for my accepted injuries with voluntary agreements, and treatment was denied for two years until a formal hearing, which took almost a year before a decision was rendered in my favor.

The Insurance companies are given too much leeway, even when there is a pattern of delay.

The injured worker has no one to appeal to but the WC Commission. If you write to the Insurance Commission, the Attorney General, & legislators, they say they have no jurisdiction or power to intervene, and defer to the WC Commission, which is bogged down by the volume of hearing requests from injured workers. The Insurance Commissioner, and or the attorney General, should have the power to intervene and also impose penalties to the insurance Co., or at least assist when medically necessary

assertive devices are withheld. The WC Commission can't do it all, and they should also be accountable to some other entity beside themselves. Especially when a case is justifiably appealed based on solid evidence. There should be other agencies the injured worker can appeal to in cases like mine, where the law is being manipulated and the persons treatment is unduly delayed and their health is at risk.

There should be a Public oversight committee, that the Commission and Insurance companies are accountable to, an independent body comprised of doctors, physical therapists, judges, and injured workers who can review cases, and make decisions that are carried out and supported by law. I have been told by legislators and other agencies it is up to my attorney to fight for my treatment.. His reply is he can only fight within the confines of the way the WC laws are written, and undo delay is a given in the WC comp system, the way the laws are presently written. It is obviously he has had no ability to deter or prevent the delays for months and sometimes years ( as in the pain management) that has occurred in my case and many others. It is a vicious cycle where the injured worker goes from pillar to post with no success, and no one to turn to. Workers' Comp system is broken, and needs to be fixed.

My being in the wrong chair without the proper support, and in a chair that puts me in the wrong orthopedic position causing more pain and injury is criminal, yet there is no one who could assist me rectifying this in a timely fashion, for 10 months despite its effect on my health and well being. Even despite the overwhelming documented evidence. I testified last year and find myself here again in more pain, with less mobility due to the delay of medical treatment for accepted work injuries, for which I have voluntary agreements.

I hope this testimony brings into reality for the legislators the high cost to the injured worker financially, emotionally and physically, that can at some point become irreversible. I hope they will show compassion for their injured constituents who are suffering, and pass this bill. I thank you on behalf of myself and other injured workers for you valuable time and attention to this bill, and for changes that are long overdue, it is most appreciated. God Bless you all, and may he guide you to pass this bill to help end this injustice.

Respectfully and gratefully ,

Lydia J. Mele

TO MRB  
12/14/07



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LYDIA MELE  
233 ELLINGTON RD APT #208  
EAST HARTFORD, CT 06108

MR: 12135

Dec 17, 1945

December 11, 2007

RE: MELE, LYDIA

To Whom It May Concern:

Lydia Mele is currently under my care for her back condition. She was recently evaluated by Paul Zelinsky, a physical therapist, with regard to seating modification. She does have problems with her current chair. The problems are of an increased magnitude because of the amount of time that she does spend in her chair, including time waiting for rides to transport her to and from appointments, as well as activities of daily living. Her specific problems deal with the degree of lumbar support that she has, the fact that she is in a kyphotic position when she sits, and the fact that her pelvic tilt is not appropriate when she is sitting in the chair. She requires a change in her seat length to avoid pressure on her knees, and she requires moveable leg rests so that her legs will not be in a dependent position, as she has edema of her lower extremities.

I reviewed the recommendations made by Mr. Zelinsky. I believe that her chair should be modified such that she will have a linear seat with lumbar support, without concave features. I believe that she should have a seat back that extends fully to meet her seat cushion. I believe that her seat should be the proper thigh length to ensure that her popliteal area is not compressed.

I agree with the need for a mechanical assist reclining feature that will allow her to reposition her lower spine and pelvis when she is sitting in the chair for prolonged periods of time. She should also have leg rests that are adjustable to allow elevation to decrease her leg edema. I believe that all of these modifications are necessary for her.

*Peter R. Barnett, M.D., Gerald J. Becker, M.D., Ross A. Benthien, M.D., Kevin J. Burton, M.D., Andrew E. Caputo, M.D., Thomas W. Dugdale, M.D.,  
John P. Fulkerson, M.D., John C. Grady-Benson, M.D., Donald R. Kelly, M.D., Charles B. Kime, M.D., W. Jay Krompinger, M.D.,  
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LYDIA MELE  
Dec 11 2007 2:11PM - continued:

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MR: 12135

If you have questions regarding this, please contact me.

Sincerely,

Gerald J. Becker, M.D.

cc: patient

Attorney Mark E. Blakeman

Constitution State Services, Attn: Elaine Smith

DD: 12/11/2007 DT: 12/12/2007 / lb (verified)



11/15/07

Dear Dr. Gerald Becker

Re: Lydia Mele

I was asked by Connecticut Rehab to consult on Ms. Mele's motorized scooter modifications. It is essential to identify Ms. Mele's multiple orthopedic problems in order to justify the aforementioned modifications. Ms. Mele has diagnosis' existing but not limited to:

1. Bilateral Knee OA
2. Lumbar DJD disc prolapsed S1, L2-3, 3-4, 4-5
3. Compression fx thoracic and lumbar spine
4. Bilateral Rotator Cuff tendonitis/tear
5. Bilateral Shoulder labral tear, OA
6. Polyosteoarthritis
7. Post right ankle surgery, post bilateral knee surgery, post left shoulder surgery
8. Edematous bilateral lower leg/feet

After thorough review of the existing configuration of the scooter (in consultation with representative from CT Rehab) we have identified the following problems:

1. Captain chair that does not have a lumbar support and is concave, forcing Ms. Mele into a kyphotic position causing lumbar flexion and posterior pelvic tilt.
2. The back of the seat and the seat do not meet, leaving a void behind Ms. Mele's sacrum. This allows her pelvis to migrate back too far in the chair causing her to be forced again into a flexed position with her pelvis in an extreme posterior pelvic tilt.
3. The existing seat length is too long for Ms. Mele which exerts excessive pressure to her posterior knees and calves. This causes an improper sitting position where her knees are higher than her hips and her knees are not at a proper 90 degree bend but rather at a 70 degree flexed position. This position further exacerbates her edematous lower legs.
4. Non- moveable leg rests which will force Ms. Mele to be in a dependent position for long periods, potentially exacerbating her bilateral lower leg edema.

5. A manual mechanism for reclining the seat back, which due to her multiple orthopedic problems becomes impossible for her to operate.

As noted above, I have been asked to assist in the modifications to Ms. Mele's new motorized scooter. With the diagnoses listed above, I believe that the following is needed to ensure proper seat positioning and support:

1. A linear seat with lumbar support (without concave features).
2. The seat back that extends fully to meet the seat cushion.
3. A seat that is the proper thigh length to ensure proper leg positioning.
4. A mechanical assist reclining feature that will allow repositioning of lower spine and pelvis (Note - Ms. Mele spends several hours at a time in this chair and I have personally witnessed her sitting and waiting for American Disability ride services for up to 3 hours).
5. Proper leg rests that fit Ms. Mele with adjustment parameters that will allow full leg elevation and all angles in between.

Sincerely,

A handwritten signature in cursive script that reads "Paul Zelinsky" followed by a stylized "RT" or "RST" monogram.

Paul Zelinsky, P.T., MS  
Manager, Rehab Services @ Evergreen Walk

cc. Lydia Mele  
Brian A. Rossi, Ct Rehab